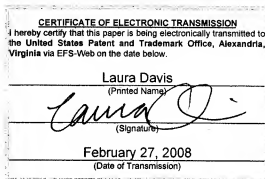


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: H. Michael SHEPARD
Title: METHODS FOR TREATING
THERAPY-RESISTANT
TUMORS
Appl. No.: 10/048,033
International 7/21/2000
Filing Date:
371(c) Date: 11/27/2002
Examiner: Crane, Lawrence E.
Art Unit: 1623
Confirmation 2767
Number:



TERMINAL DISCLAIMER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Your Petitioner, Celmed Oncology (USA), Inc., having its principal place of business at 2525 ave. Marie-Curie, Saint-Laurent, Quebec H4S 2E1, Canada, represent that they are the owners of the entire right, title, and interest in and to U.S. Patent Application Serial No. 10/048,033, filed 7/21/2000, which is the U.S. National Stage Entry Application of PCT Application No. PCT/US2000/020007, filed 7/21/2000, by virtue of an Assignment from the inventors to NewBiotics, Inc. filed and recorded on 3/28/2002, on Reel/Frame 012760/0324, in the United States Patent and Trademark Office. NewBiotics, Inc. subsequently changed its name to Celmed Oncology (USA),

Inc. A copy of the change in name was recorded on 12/01/2004, on Reel/Frame 015407/0077.

Further, your Petitioners represent that they are the owners of U.S. Patent Application No. 09/782,721, filed 2/12/2001, which is a continuation of U.S. Patent Application Serial No. 09/235,961, filed 1/22/1999, now U.S. Patent No. 6,339,151, by virtue of an Assignment from the inventors to NewBiotics, Inc. filed and recorded on 09/03/2002, on Reel/Frame 013265/0494, in the United States Patent and Trademark Office. NewBiotics, Inc. subsequently changed its name to Celmed Oncology (USA), Inc. A copy of the change in name was recorded on 11/04/2005, on Reel/Frame 016737/0240, in the United States Patent and Trademark Office.

Further, your Petitioner represents that it is the owner of U.S. Patent Application Serial No. 09/789,226, filed 02/20/2001, by virtue of an Assignment from the inventors to NewBiotics, Inc. filed and recorded on 02/20/2001, on Reel/Frame 011615/0029 and filed and recorded on 09/29/2005, on Reel/Frame 016649/0362, in the United States Patent and Trademark Office. NewBiotics, Inc. subsequently changed its name to Celmed Oncology (USA), Inc. A copy of the change in name was recorded on 09/19/2005, on Reel/Frame 016551/0745, in the United States Patent and Trademark Office.

Further, your Petitioner represents that it is the owner of U.S. Patent Application Serial No. 11/034,036, filed 01/12/2005, by virtue of an Assignment from the inventors to NewBiotics, Inc. filed and recorded on 11/07/2005, on Reel/Frame 016740/0394, in the United States Patent and Trademark Office. NewBiotics, Inc. subsequently changed its name to Celmed Oncology (USA), Inc. A copy of the change in name was recorded on 12/05/2005, on Reel/Frame 016852/0424, in the United States Patent and Trademark Office.

Further, your Petitioner represents that it is the owner of U.S. Patent No. 7,138,388, which issued on U.S. Patent Application No. 10/051,320, filed 01/18/2002,

by virtue of an Assignment from the inventors to NewBiotics, Inc. filed and recorded on 03/28/2002, on Reel/Frame 012761/0266, in the United States Patent and Trademark Office. NewBiotics, Inc. subsequently changed its name to Celmed Oncology (USA), Inc. A copy of the change in name was recorded on 08/31/2005, on Reel/Frame 016476/0678, in the United States Patent and Trademark Office.

Further, your Petitioner represents that it is the owner of U.S. Patent Application Serial No. 10/681,418, filed 10/07/2003, by virtue of an Assignment from the inventors to NewBiotics, Inc. filed and recorded on 09/29/2005, on Reel/Frame 016614/0051, in the United States Patent and Trademark Office. NewBiotics, Inc. subsequently changed its name to Celmed Oncology (USA), Inc. A copy of the change in name was recorded on 09/29/2005, on Reel/Frame 016614/0058, in the United States Patent and Trademark Office.

Your Petitioner Celmed Oncology (USA), Inc., hereby disclaims the terminal part of the term of any patent granted on U.S. Patent Application 10/048,033 which would extend beyond the full statutory term, as presently shortened by any terminal disclaimer, of U.S. Patent No. 7,138,388 and any patents granted on U.S. Patent Application Nos. 09/782,721; 09/789,226; 11/034,036 and 10/681,418, and hereby agree that any patent so granted on U.S. Patent Application 10/048,033 shall be enforceable only for and during such period that the legal title to U.S. Patent No. 7,138,388 and any patents granted on the aforementioned patent applications shall be the same as the legal title to any patent granted on U.S. Patent Application 10/048,033, this agreement to run with any patent granted on U.S. Patent Application 10/048,033 and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim any terminal part of any patent granted on U.S. Patent Application 10/048,033, prior to the full statutory term of U.S. Patent No. 7,138,388 and any patents granted on the aforementioned patent applications as defined in 35 U.S.C. §§154-156 and 173, in the

event that U.S. Patent No. 7,138,388 and any patents granted on the aforementioned patent applications expire for failure to pay a maintenance fee, is held unenforceable or is found invalid in a final judgment by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321(a), has all claims canceled by a reexamination certificate or as a result of an interference proceeding, or is otherwise not deemed to provide the rights conveyed by 35 USC §154, prior to the full statutory term of U.S. Patent No. 7,138,388 and any patents granted on the aforementioned patent applications, as defined in 35 USC §§154-156 and 173, except for the separation of legal title stated above. Further, Petitioner does not disclaim any terminal part of a patent granted on U.S. Patent Application 10/048,033 that would extend beyond the present termination of U.S. Patent No. 7,138,388 and any patents granted on the aforementioned patent applications, in the event that such present term is extended by virtue of compliance with the conditions for term extension of any present or future patent term extension provisions of the patent law, including but not limited to 35 U.S.C. §§155, 155A or 156, and without waiving Petitioner's right to extend the term of a patent granted on U.S. Patent Application 10/048,033 to the extent provided by law.

The undersigned, being the Attorney of Record for U.S. Patent Application 10/048,033, and duly authorized to act on behalf of the Petitioner, certifies that she has reviewed the above-referenced Assignments, and to the best of her knowledge and belief, legal title to U.S. Patent Application 10/048,033 and U.S. Patent No. 7,138,388 and any patents granted on the aforementioned patent applications rests with Petitioner Celmed Oncology (USA), Inc. The undersigned declares that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that

such willful false statements may jeopardize the validity of the above-identified application or any patent issuing therefrom.

Respectfully submitted,

Date Feb. 27, 2008

By Antoinette F. Konski

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